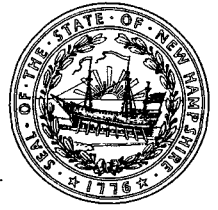




State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



**LETTER OF DEFICIENCY
SP 2005-03**

July 11, 2005

David Kathios
10 Kathios Lane
Berwick, ME 03901

RE: DES Wetlands File #2005-01304
126 St. James Avenue, Milton

Dear Mr. Kathios:

On June 6, 2005, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Milton Tax Map 33 as Lot 50 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A and NH Code of Admin. Rules Wt 100-700, RSA 483-B, and the Shoreland Protection Rules Env-Ws 1400.

During the inspection the following deficiencies were documented:

1. The bank was excavated down approximately 4.5 ft in elevation without a permit.
2. Within the 50 ft setback stumps and their root systems were completely removed.
3. Adequate erosion controls were not installed to stabilize the site and keep sediment from entering Townhouse Pond.
4. Existing erosion controls have not been maintained and sediment has overflowed the fence.

In response, you are requested to take the following actions:

1. Within 10 days of receipt of the LOD, establish new erosion controls as prescribed. Starting from the reference line up to the top of bank, immediately install two rows of silt fence, 4 ft apart, parallel to the shoreline with a row of trenched in and staked down hay bales, and a row of silt fence at the top of bank followed by trenched in and staked down hay bales at the very top (see enclosed information for proper maintenance and installation) and submit photos showing the bank with the properly installed erosion controls.
2. Within 30 days of receipt of this Letter of Deficiency, submit a restoration plan to DES for review and approval. The restoration plan shall be prepared by a qualified professional, and include provisions for the re-establishment of the pre-existing bank contours and complete vegetative bank stabilization on the Property. Submit the following with the restoration plan:

- a. A plan with dimensions, drawn to scale, showing:
 1. Existing conditions, with wetland/shoreland boundaries to include: normal high water (elevation 414.1 above sea level); and the reference line.
 2. Proposed conditions after reestablishing the jurisdictional areas;
 - b. A detailed description of the proposed planting plan for the stabilization and revegetation of the restoration area and control of invasive species,
 - c. A description of the proposed construction sequence and methods for accomplishing restoration and anticipated restoration compliance date.
 - d. A description of the method of documenting at least 75% survival of all vegetation planted during the restoration project. This should include at a minimum monitoring progress reports for two successive growing seasons following completion of the restoration project.
2. Retain a qualified environmental professional to supervise the implementation of the restoration plan and to submit the restoration progress reports.
 3. Implement the restoration plan only after receiving written approval and as conditioned by DES.

RSA 483-B, the New Hampshire Comprehensive Shoreland Protection Act, was enacted to protect and preserve the shorelands of the State to maintain the integrity and exceptional quality of the State's public waters. RSA 483-B and Env-Ws 1400-1409 establish minimum standards for the future subdivision, use, and development of the shorelands within 250 feet of the state's public waters.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel will conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

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July 11, 2005
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All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Jeffrey Blecharczyk, Shoreland Enforcement Coordinator
Wetlands Bureau
Department of Environmental Services
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Jeff Blecharczyk at (603) 271-6876.

Sincerely,

A handwritten signature in cursive script, likely of Collis G. Adams, is written over a large, bold, black 'COPY' stamp. The signature appears to read 'Collis G. Adams'.

Collis G. Adams, CWS
Administrator
Wetlands Bureau

CERTIFIED MAIL 7004 0750 0001 2419 2967

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen R. Hamel, Administrator, DES Legal Unit ✓
Milton Conservation Commission
Milton Board of Selectmen
USACOE